

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

SOUTH CAROLINA COASTAL CONSERVATION LEAGUE;
CENTER FOR BIOLOGICAL DIVERSITY; DEFENDERS OF
WILDLIFE; NATURAL RESOURCES DEFENSE COUNCIL,
INC.; NORTH CAROLINA COASTAL FEDERATION;
OCEANA; ONE HUNDRED MILES; SIERRA CLUB; and
SURFRIDER FOUNDATION,

Plaintiffs,

v.

NATIONAL MARINE FISHERIES SERVICE; WILBUR ROSS,
in his official capacity as the Secretary of Commerce;
and CHRIS OLIVER, in his official capacity as the
Assistant Administrator for Fisheries,

Defendants.

Civ. No. 2:18-cv-3326-RMG
(Consolidated with 2:18-cv-3327-RMG)

**PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

Plaintiffs hereby submit this Motion for a Preliminary Injunction pursuant to Federal Rule of Civil Procedure 65. In violation of the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, and the Administrative Procedure Act, Defendant National Marine Fisheries Service (NMFS) has authorized five oil and gas exploration companies to harass marine mammals, including the critically endangered North Atlantic right whale, by conducting seismic airgun blasting up and down the Atlantic coast. The Bureau of Ocean Energy Management (BOEM) is poised to issue its own permits under the Outer Continental Shelf Lands Act imminently. The loud, incessant noise from these overlapping seismic surveys will irreparably harm the Atlantic's marine ecosystem and, thereby, Plaintiffs' members.

Since filing suit in December, Plaintiffs have tried to negotiate an agreement among the parties in this and the companion case on a proposed schedule for this litigation that would obviate the need for Plaintiffs to seek urgent relief. *See* Bernard Decl. ¶¶ 2-11. The parties have negotiated in good faith, but have been unable to reach agreement on a schedule. Counsel for NMFS and BOEM have been unable to provide Plaintiffs with information as to when BOEM permits will issue beyond that set out in Defendants' filings. *Id.* ¶ 9. The five oil and gas exploration companies that have received authorizations from NMFS—all Defendant-Intervenors in this case—have not committed to forgo seismic blasting until this Court can issue a ruling on Plaintiffs' claims. *Id.* ¶ 6.

According to the Declaration of BOEM's Acting Director Walter Cruickshank, BOEM permits may issue as soon as March 1, 2019. *See* ECF No. 72-1 ¶ 8. Those permits will include a 30-day notice provision. *Id.* ¶ 9. Thus, oil and gas exploration companies may be poised to begin seismic blasting in the Atlantic as early as March 30.

The harm Plaintiffs seek to prevent will begin as soon as seismic blasting does. Though BOEM permits have not yet issued, those permits appear imminent. Accordingly, Plaintiffs file now to ensure adequate time for this Court to consider and decide this motion before seismic blasting begins.

For the reasons set forth in the accompanying brief, Plaintiffs respectfully ask this Court to enter a preliminary injunction to halt seismic airgun blasting in the Atlantic until the Court is able to resolve the merits of Plaintiffs' claims.

Undersigned counsel Mitchell Bernard and Thomas Perrelli certify that they communicated with opposing counsel, in accordance with Local Rule 7.02 (D.S.C.), to ascertain the Defendants' and Defendant-Intervenors' positions on this motion. Counsel for Plaintiffs are informed that Defendants and Defendant-Intervenors will oppose Plaintiffs' motion for preliminary injunctive relief.


In support of this motion, Plaintiffs rely on the memorandum of law, declarations, and exhibits attached hereto. Plaintiffs respectfully request a hearing on this motion.

Dated: February 20, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

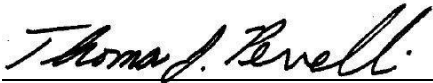
I hereby certify that a copy of the foregoing Motion for a Preliminary Injunction was on this date served upon all counsel of record by filing the same on the Court's ECF system.

Charleston, South Carolina, this 20th day of February, 2019.

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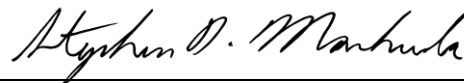


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